



# Fort Stewart/HAAF Joint Land Use Study Implementation Model Overlay Zoning District



*Prepared by*

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Under contract to the Coastal Regional Commission

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JOINT LAND USE STUDY  
IMPLEMENTATION

## Acknowledgements

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The Fort Stewart/Hunter Army Airfield Joint Land Use Study (JLUS) is a cooperative land use planning initiative between the U.S. Army and surrounding cities and counties of the region.

Partners in the JLUS included: Bryan, Effingham, Chatham, Liberty, Long and Evans Counties; the Cities of Hinesville, Savannah, Pooler, Bloomingdale, Pembroke, Richmond Hill, Glennville, Gum Branch, Allenhurst, Flemington, and Walthourville; the Coastal Regional Commission and the Heart of Georgia-Altamaha Regional Commission; and Fort Stewart/Hunter Army Airfield.



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## Overview

The Model Overlay Zoning District is an implementation project of the Fort Stewart/HAAF Joint Land Use Study (JLUS), which was completed in 2005. The Fort Stewart/HAAF JLUS was prepared by the Coastal Regional Commission and funded by the Office of Economic Adjustment, Department of Defense (DoD) as a cooperative land use planning initiative among the U.S. Army, cities and counties surrounding this military installation. The ongoing JLUS implementation program seeks to establish and bridge the relationship between Fort Stewart and the community to avoid conflicts associated with future community growth. The JLUS objective is to protect the resident's quality of life, the property owner's rights and the existing and future mission of the Fort Stewart installation.

The intent of the Fort Stewart/HAAF JLUS is to identify, address and resolve encroachment issues between the military and its civilian neighbors to promote compatible land uses and growth management guidelines. Encroachment—urban development near military installations—can contribute to problems with the military's operational effectiveness when preparing for missions. It can also be disruptive to the civilian population, as well as public establishments such as schools and religious centers, that are located near the base.

Encroachment occurs when adjacent military and civilian land uses generate one of both of the following effects:

- Nearby community development interferes with the ability of the military to perform its mission or causes modifications to military operating procedures; or
- Members of the public are exposed to a higher than normal level of operational impacts associated with military activities, such as noise, smoke or the risk of an aircraft mishap

### Economic Influence

Although most military installations were originally developed in distant areas away from urbanized communities, the availability of non-military job opportunities encouraged people and businesses to relocate to these areas. Military's training practices can be loud and present safety concerns for nearby civilian communities. Loud-noise levels, low-flying planes and ground-training exercises generate impact noise that can adversely impact the surrounding community if the civilian population chooses to locate near the military installation. When these practices become intolerable, people and communities seek relief. This results in public pressure on the military base commanders to modify or curtail training operations or transfer activities to other installations. Mission constraints can lead to base closure. Consequently, modifying or curtailing the military's training activities can have a direct and detrimental impact on local communities in terms of military presence, civilian jobs, tax base and economic health.



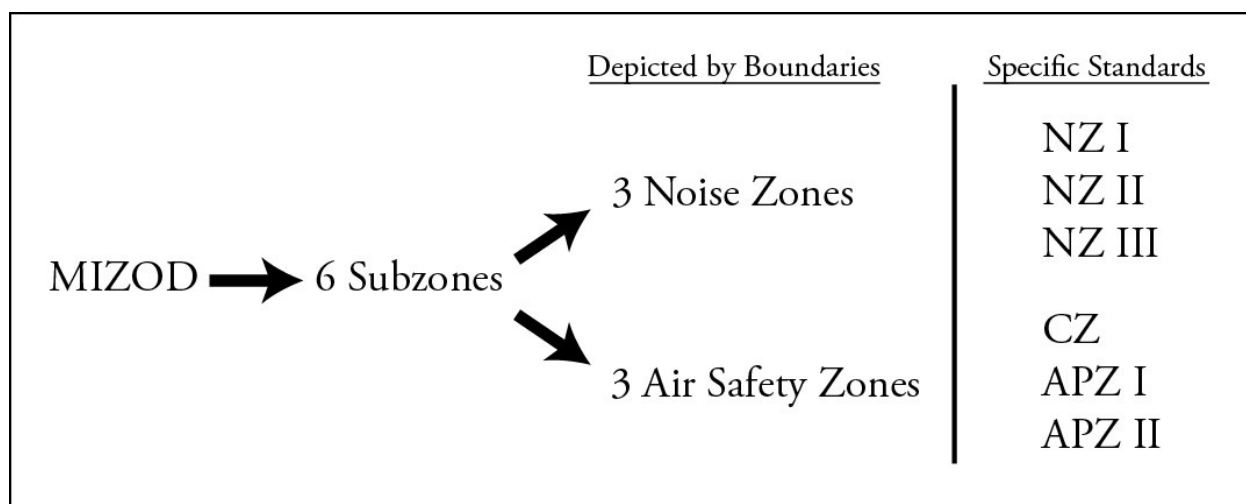
The goal of the Fort Stewart/HAAF JLUS is not only to protect the viability of current and future military missions, but also to accommodate growth, sustain regional economic health and protect public welfare, health and safety. The economic impact of Fort Stewart/HAAF on the surrounding region is significant. In 2011, Fort Stewart/Hunter Army Airfield was the largest employer (annually almost 90,000 military and civilian personnel) in the coastal Georgia region and accounted for a significant amount of the total direct economic impact. The estimation of this economic impact amounts to \$7.13 billion annually.

Currently, Liberty County and the City of Hinesville are operating under a joint-use agreement with Fort Stewart and the DoD to utilize Wright Army Airfield (WAAF) as a joint-use airport to serve the needs of the city, county and region. Permanent civilian air service greatly improves economic development conditions and increases non-military employment and training opportunities throughout the region. Liberty County is pursuing the development of a commerce/industrial park in the vicinity of the WAAF.

### Model Zoning Overlay District

The Military Installation Zoning Overlay District (MIZOD) has been developed as the zoning tool to implement initiatives from the Fort Stewart/HAAF JLUS and to regulate incompatible development surrounding the military installation (see Appendix). The MIZOD is divided into six (6) subzones, each having specific standards beyond what is required by the underlying zoning district. These subzones are categorized into three (3) Noise Zones and three (3) Air Safety Zones pursuant to the guidance of the Fort Stewart/HAAF JLUS. The boundary of the MIZOD is derived from the boundary of the largest subzone, thus acting as an umbrella for the remaining five (5) subzones. The boundary of the MIZOD was developed during the Fort Stewart/HAAF JLUS.

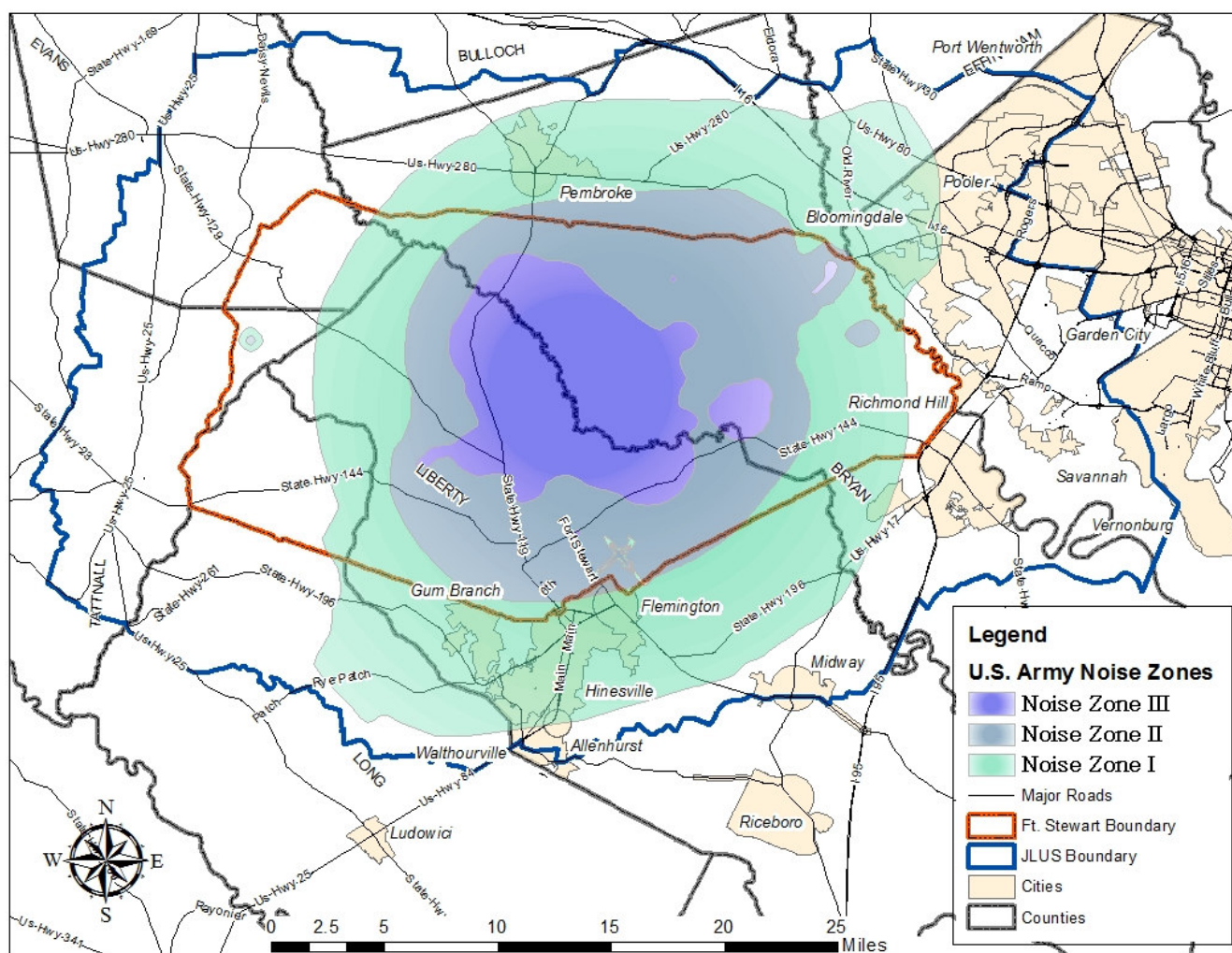
### MIZOD Conceptual Diagram





The Military Installation Zoning Overlay District Ordinance (MIZOD) is a voluntary Model Zoning Overlay District, which has been developed for use in conjunction with existing zoning regulations by local municipal and county jurisdictions that surround the Fort Stewart/WAAF military installation. Each jurisdiction has some flexibility in the composition of the military overlay zoning district they adopt, but it should remain consistent with the Fort Stewart/HAAF JLUS and Federal guidelines for land use compatibility surrounding military installations.

### Map Exhibit: Fort Stewart Noise Zones Boundaries

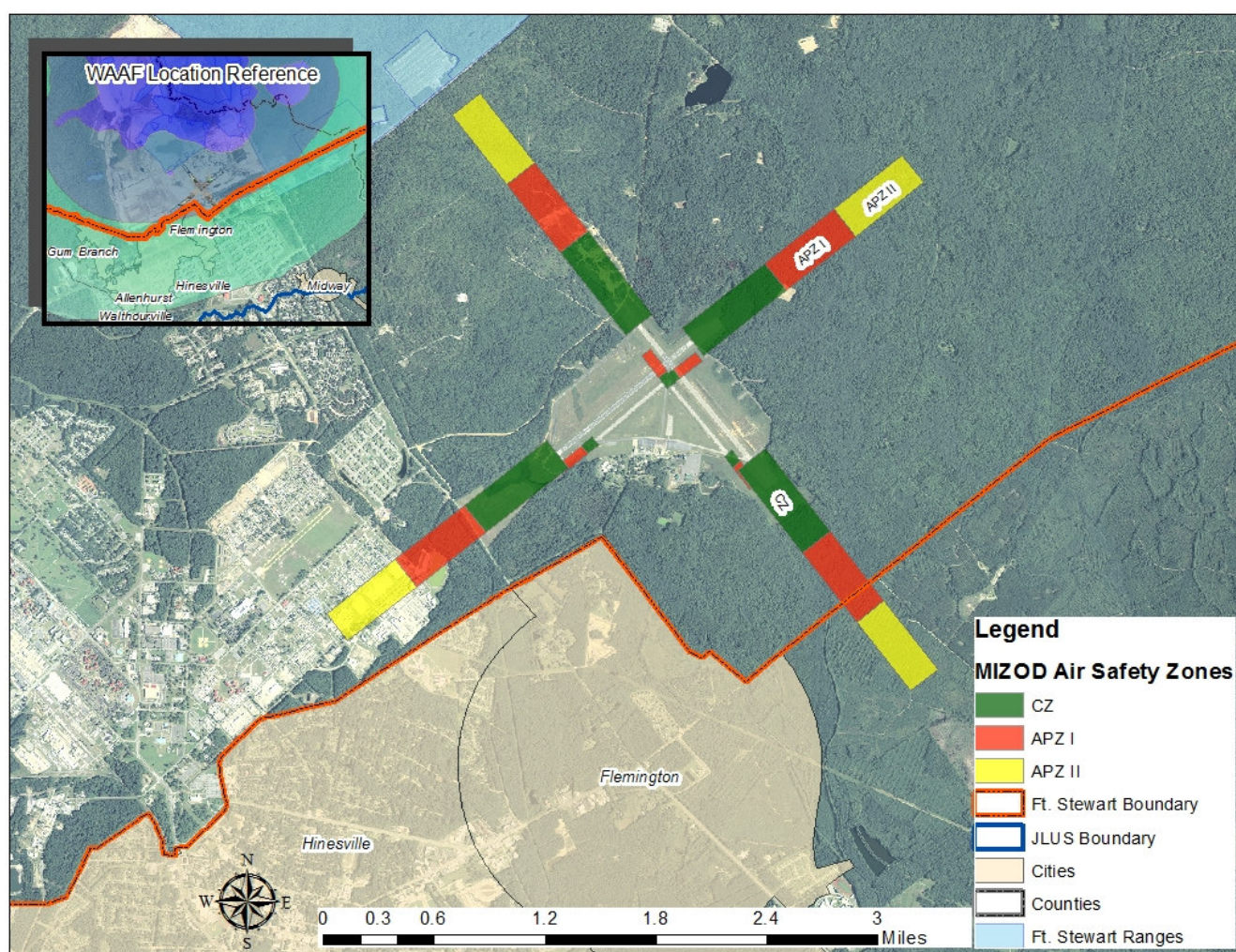






There are off-post lands surrounding Fort Stewart/WAAF that are particularly susceptible to noise impacts caused by military aircraft, the firing of heavy weaponry or detonations as well as potential areas for aircraft accidents. During periods of more intense activity and under certain atmospheric conditions, these off-post lands may be subject to higher noise impacts that trigger annoyance (especially noise sensitive uses). As a supplement to standard zoning, an overlay zoning district allows communities to regulate land uses that are compatible with the impacts of the military installation and ensure people and businesses are not exposed to undue safety risks or nuisances.

### Map Exhibit: Fort Stewart/ Wright Army Airfield Air Safety Zones





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The MIZOD implements recommendations contained in the Fort Stewart/HAAF JLUS by protecting its future military mission and the economic health of the region and individual property rights. The MIZOD's goal is to protect the health, safety, welfare and quality of life of residents and businesses in the surrounding municipalities and counties. The MIZOD provides a regulatory framework for communities to ensure compatible land use planning and development standards for off-post lands impacted by military activities. An accompanying review process that satisfies the recommendations of the Fort Stewart/HAAF JLUS is also provided.

This report provides a summary of activities conducted and materials provided regarding the outreach for the Model Overlay Zoning District.



## Summary of Outreach Activities

### Introduction

The purpose of the model overlay zoning outreach project was to develop a regulatory tool for local governments to utilize in order to implement compatibility initiatives from the 2005 Fort Stewart/HAAF Joint Land Use Study (JLUS). One of the recommended compatibility initiatives identified in the JLUS was to utilize zoning tools to ensure appropriate community growth outcomes for off-post lands and to limit the expansion of incompatible land uses in areas impacted from military training activities. This situation, referred to as encroachment, can negatively affect the military's operational effectiveness, training and readiness missions as well as impact civilian development and quality of life. A regulatory technique capable of minimizing encroachment on lands surrounding a military installation is a special overlay zoning district. This project's goal was to initiate outreach regarding a model overlay zoning district, as well as continue to advance cooperative land use planning efforts between affected local governments and the Fort Stewart military installation. One of the important goals for this project was to develop a model ordinance which affected jurisdictions may adopt into their local zoning codes and/or land development regulations.

A Military Installation Zoning Overlay District (MIZOD) model ordinance has been developed, that is specific to Fort Stewart and its surrounding jurisdictions. The process involved meeting with affected local government representatives to foster an understanding of the model overlay zoning district to gauge support for the continued dialogue on growth management; determine the level of technical assistance which may be requested from the Coastal Regional Commission (CRC); and if requested, calibrate the model ordinance for implementation in their jurisdiction.

The MIZOD is most applicable to Bryan, Liberty and Long Counties, but could be of interest to Evans and Tattnall Counties as a first step toward establishment of land use regulations in areas which are affected by Fort Stewart mission training activities. Currently, Evans and Tattnall Counties do not regulate land use through zoning powers. The cities of Pembroke, Hinesville, Flemington, Gum Branch and Richmond Hill are also candidates for adoption of a overlay zoning district. Bryan County and Chatham County have the highest potential for incompatible community development within the Army Compatible Use Buffer (ACUB), followed by the cities of Savannah, Richmond Hill, Hinesville and Pembroke. In addition, the MIZOD has been provided to the Fort Stewart Growth Management Partnership for their use during the drafting of revisions to the unified land development ordinances of Liberty County and its incorporated municipalities.

Through the Metropolitan Planning Commission (MPC), the City of Savannah and Chatham County has developed an Airport Overlay District (AOD) as part of the proposed Unified Zoning Ordinance (UZO) which would be the MIZOD's counterpart for land use regulations surrounding Hunter Army Airfield.

As part of this project, the CRC met with the affected local government representatives to present the MIZOD; including how it could be implemented in their jurisdiction; how it would reduce encroachment; and, offered assistance to calibrate and adopt a localized version of the overlay zoning district. This project is critical to ensure that local government representatives understand the benefits of the MIZOD and how it can achieve better community development outcomes on lands surrounding Fort Stewart.

## **Outreach Events**

The CRC conducted outreach activities and presented the MIZOD model ordinance to the following entities:

- Liberty County Planning Commission, April 20, 2011  
(Appointed officials/ staff who provide recommendations to the Liberty County Board of County Commissioners and the elected bodies of incorporated municipalities regarding the implementation to the unified land development code)
- Long County Planning Commission, April 21, 2011  
(Appointed officials and staff who recommend land use and zoning decisions to the Long County Board of Commissioners and the elected bodies of incorporated municipalities)
- Bryan County Planning Commission, May 5, 2011  
(Appointed officials and staff who recommend land use and zoning decisions to the Bryan County Board of Commissioners and the elected bodies of incorporated municipalities)
- Hinesville City Commission, May 19, 2011  
(Elected body for the City of Hinesville)
- Fort Stewart Growth Management Partnership, May 24, 2011  
(A group of elected officials, appointed officials and technical experts representing the affected counties and municipalities including Fort Stewart)
- JLUS Regional Coordinating Committee, May 25, 2011  
(A group of elected officials, appointed officials and technical experts who represent affected counties and municipalities including Fort Stewart)
- JLUS Regional Coordinating Committee, June 29, 2011  
(A group of elected officials, appointed officials and technical experts who represent affected counties and municipalities including Fort Stewart)
- Bryan County Board of County Commissioners, August 9, 2011  
(Elected body for Bryan County)



## Overall Findings

The overall findings of the outreach activities regarding model ordinance district can be characterized in the following manner. With the exception of one jurisdiction, the majority of local government participants generally acknowledged that there was a need for additional special zoning techniques to strengthen development regulations and codes in the most heavily impacted lands surrounding Fort Stewart. Due to the regulatory nature of the of the MIZOD framework, the majority of comments were directed towards the property disclosure/notice and easement provisions of the model ordinance. There was some apprehension regarding these provisions, as it would mandate the local government to implement new regulations within their communities and which places additional review and enforcement responsibilities on the jurisdiction. Other discussion topics included the need to clarify administrative practices regarding the application of the MIZOD. The concept of overlay zoning districts is relatively new in many parts of Georgia, particularly within rural counties small-sized municipalities. The more familiar that local governments are with the concept of overlay zoning districts, the sooner they may be viewed as beneficial growth management tools that can address complex land use issues which are specific to a geographical area.

A recurring topic of discussion was the impacts to areas located beyond the area of influence that would be regulated by the MIZOD. During periods of intense training activity at Fort Stewart, several participants noted annoyances due the affects of large caliber weapons firing which can cause sub-surface well fracturing as well as structure vibration. Additionally, aircraft maneuvers that are not in-bound or out-bound from Wright Army Airfield or within the designated transition routes between Fort Stewart and Hunter Army Airfield were identified as an annoyance. These aircraft maneuvering routes are used for training missions related to the Drop Zones and Artillery Impact Areas located on Fort Stewart. In response to the identification of these annoyances, it was restated that the MIZOD only covered the geographic area identified in the FS/HAAF JLUS and is limited to the military operational impact areas that were evaluated as part of this study.

Another recurring topic of discussion was the need to undertake further coordination with Federal agencies such as the Veterans Administration (VA), Department of Housing and Urban Development (HUD), and the Rural Development Administration (RDA) of the Department of Agriculture to gain their technical assistance regarding residential development located in areas affected by aircraft accident potential and high noise zones. Guaranteed loans for mortgages may not be provided to properties located within designated noise/aircraft safety areas surrounding military installations and regulated by local jurisdictions.





## Summary of Comments and Responses

The following questions were collected from the MIZOD model ordinance outreach activities. The questions are listed in no particular order, but are grouped with similar questions. Additional research was completed in order to provide responses to the questions.

### Disclosure/Notice and Market Impacts

Question 1. What are the affects on the real estate market from requiring disclosure to prospective buyers and lessees that property is located within a special overlay zoning district due to impacts from a military base or installation?

*Response: Preliminary findings reveal a lack of directly comparable research on the affects of disclosure to prospective buyers or lessees who are considering residing within an area impacted by a military installation. However, there are a few published research studies on similar subject matters (i.e., airport noise disclosure) in which generalized conclusions may be applicable to this topic.*

*At least thirty-four (34) States have passed government-mandated “seller disclosure requirements” on the market for residential property transactions. The increase in seller disclosure requirements throughout the U.S. appear to be in response to a growing discontent that buyers may have been less than fully informed on the properties they have purchased. In particular, disclosure requirements are meant to provide information to buyers and lessees so they can make an informed decision prior to executing a purchase contract or lease. Buyers and lessees who are unaware or uninformed about the extent of nearby noise sources may not make the same decision on a location if such information was provided. Therefore, in the residential market, information disclosure can help buyers and lessees choose homes that better match their preferences. For example, a buyer who is very sensitive to noise will more than likely choose not to live near a noise generating facility after disclosure, whereas another buyer who is not sensitive to noise may choose to live in the same area after disclosure. Noise generating uses such as airports and similar facilities are usually considered a “bad” housing attribute and in many jurisdictions this information is publicly available.*

*There are two main findings from the literature review on the topic which may be relevant to this discussion. Firstly, disclosure requirements can address the lack of information in housing transactions, shifting the risk from buyers and brokers to sellers. The more information that is provided in housing transactions, such as a state-mandated seller’s property condition disclosure statements, the greater the buyer’s confidence in the market and as a result increase the average selling price of the homes. Secondly, the research also indicates that when perceptible “bad” housing attributes are disclosed in housing transactions, the areas most heavily impacted by these attributes may be negatively affected, and as a result reduce the average values of homes in a given location.*



Question 2. What are the outcomes in jurisdictions which have implemented similar military-specific overlay zoning districts?

*Response: Throughout the U.S. and Georgia there are many jurisdictions that have successfully implemented similar overlay zoning districts to the MIZOD due to the presence of military bases or installations in their communities. The table below identifies a sampling of jurisdictions with land use regulations which are similar to the requirements of the MIZOD. Due to the variability of community growth patterns, distance between communities and nearby installations, installation training and mission characteristics, finding comparable communities in which to evaluate the impacts from adopting an overlay zoning regulation is challenging.*

#### Jurisdictions with Military-related Zoning Districts

Jurisdiction	State	Base	Ordinance	Code Citation	Notice/Disclosure
Escambia County	Florida	NAS Pensacola	Airport/Airfield Environs	Article 11	Yes (1)(2)(3)
City of Hampton	Virginia	Langley AFB	Aircraft Approach District	Chapter 17.3. Article III	No (1)
Houston County	Georgia	Robins AFB	Base Environs Overlay District	74.4	Yes (1)(2)
Twiggs County	Georgia	Robins AFB	Base Environs Overlay District	Section 13.1.	Yes (1)(2)
Bibb County	Georgia	Robins AFB	Base Environs Overlay Zones	Section 20C.02.	Yes (1)(2)
City of Warner Robins	Georgia	Robins AFB	Base Environs Overlay District	Section 74.4	Yes (1)(2)
Maricopa County	Arizona	Luke AFB	Military Airport and Ancillary Military Overlay Zone	Section 1010	No (1)(2)(3) – Article 1111.3
City of Lincoln	Nebraska	Nebraska Air/Army Guard & Municipal Airport	Airport Environs Noise District	Chapter 27.58	No (2)(3)
Arapahoe County	Colorado	Buckley AFB	Overlay District Airport Influence Area	Section 10-100	Yes (1)(2)(3)
City of San Antonio	Texas	Camp Bullis	Military Sound Attenuation Overlay District	Section 35-339.05.	No (2)
City of Virginia Beach	Virginia	NAS Oceana	Air Installations Compatible Use Zones	Article 18. Sec. 1800.	No (1)(2)
Savannah - Chatham County	Georgia	Hunter AAF	Airport, Airfield Overlay District*	Section 7.2	Yes (1)(2)
Notes: * Proposed (1) Land Use restrictions (2) Sound Attenuation requirements (3) Avigation and/or Noise Easements Required as condition of development approval					



Question 3. In Georgia, what are the legal obligations and requirements regarding disclosure to prospective buyers or lessees that property is located within an overlay zoning district and affected by potential military-related impacts?

*Response: The Land Use Clinic at the University of Georgia School of Law has conducted a review of the laws and statutes of the State of Georgia on the requirements of zoning disclosure/ notice to prospective buyers or lessees of property which is located within an adopted overlay zoning district. This information is included within the Appendix of this report.*

Question 4. Would homes located within an overlay zoning district such as the proposed MIZOD affect their eligibility for programs offered by the Veterans Administration (VA), Department of Housing and Urban Development (HUD) and Rural Development Administration (RDA) of the Department of Agriculture backed mortgages and loans?

*Response: For communities that implement JLUS initiatives such as an overlay zoning district to regulate land use within areas affected by aircraft potential and high noise zones, Federal agencies such as the VA, HUD and RDA who offer housing assistance programs may not provide guaranteed loans to purchasers of homes that do not conform with local zoning regulations.*





### Sound Attenuation/Noise Reduction Requirements

Question 5. How does the Noise Level Reduction (NLR) requirement of 25 decibels (i.e., outdoor to indoor), as required by the MIZOD for applicable structures affect construction cost?

*Response: Preliminary research indicates that new construction built under the International Building Code (with Georgia State Amendments) should achieve a NLR of between 20 – 25 decibels. Therefore, the additional construction costs associated with implementing the sound attenuation requirements would be minimal. Under Georgia law, any structure built in Georgia must comply with the International Building Code, whether or not the local government chooses to locally enforce such code. The MIZOD identifies several additional provisions which may further increase the NLR outcome. The MIZOD provisions are identified below.*

- (i) All exterior doors shall be either:
  - a. Solid-core or metal-clad construction, or
  - b. Separately equipped with wood or metal storm door, or
  - c. Multiple-glazed.
- (ii) Multiple-glazed windows shall be provided for all habitable space.
- (iii) Through-the-wall/door mailboxes, venting skylights, jalousie windows or other direct openings from the interior to the exterior of the building shall be prohibited.
- (iv) Mechanical ventilation shall be provided of a type and design to provide adequate environmental comfort with all doors and windows closed during all seasons. Window and through-the-wall ventilation units shall not be used.

*The local jurisdiction's building official should be involved in the calibration of the MIZOD to ensure that building code requirements will meet the NLR condition, and if necessary, include additional provisions to the ordinance to ensure compliance. It should be noted that sound attenuation requirements are intended to reduce outdoor to indoor noise that are measured by an A-weighted metric which reflects aircraft noise. Blast noise which is measured by a C-weighted metric reflects large caliber weaponry and comprises a noise as well as a vibration element. Sound attenuation standards as described in this section do not reduce the vibration impact on homes.*

Questions 6. How does the Georgia Building Code compare to the NLR 25 requirement?

*Response: See response to Question 5.*

### Noise Zones Boundaries

Question 7. What happens if the Noise Zone boundaries change years after they are adopted?

*Response: The Noise Zones may only be modified as a result of a new noise study conducted by the appropriate entity (see response to Question 9). Noise Zone boundaries may change as a result of one or more of the following: mission activity change; increase or decrease in intensity of aircraft operations; change in aircraft types; and range siting or addition of new large caliber weaponry. Regardless of changes to actual noise zone contours mapping, only the local jurisdiction may change the Official Zoning Map and amend the noise zone boundaries if it determines the changes are significant enough to warrant such boundary modifications.*

*It has been suggested that consideration should be given to planning for possible fluctuations in noise impact configurations that future change in aircraft, flight frequency, or mission would cause. Currently, the noise metric utilized for determining the land use regulation framework (i.e., the Day–Night Sound Level) reflects a 24-hour average frequency-weighted sound level. Alternatively, an approach to identifying a future maximum mission contour (MMC) would minimize the local planning difficulty in responding to the "accordion" effect of noise impacts as mission and weapons configurations change over time. The MMC concept is intended to project future conditions based not on certainty, but rather on sound judgment, information exchange, and community goals and objectives. A "notional" MMC can define the projected noise contours a community is willing to accept for land use planning purposes.*

Question 8. What happens when new property owners acquire properties located within overlay zoning districts?

*Response: An overlay zoning district, like any adopted zoning district is a local land use regulation which runs with the land. Such land use regulations control the use of property beyond the transfer of the property from owner to owner for as long as the implementing ordinance remains valid in the local jurisdiction. Future owners must adhere to the requirements of the zoning ordinance and are permitted to use the property in accordance with the codes as designated on Official Zoning Map and Zoning Ordinance.*



Question 9. Are the Noise Zone boundaries surrounding Fort Stewart arbitrary and how do local jurisdictions maintain and ensure they reflect current conditions?

*Response: No. The Noise Zones boundaries are not arbitrary. Noise zones boundaries are created via established environmental and noise metric analytical methodologies. Noise data is analyzed via computer modeling programs which in turn create geographic boundaries that depict the location and intensity of the noise, which are then shown on maps. Additional noise studies are periodically conducted to analyze changes in mission activity (i.e., new ranges, new munitions, increased activities). As part of the compliance process with the National Environmental Policy Act (NEPA) there are numerous requirements for public comment during the evaluation and study of new facilities which may impact the surrounding community. For the MIZOD, the local jurisdiction would adopt Noise Zone boundaries as an amendment to the Official Zoning Map which identifies the geographic areas in which the MIZOD regulations are enforced.*

#### Grandfathering/Exemptions

Question 10. What does grandfathering mean and how does it relates to the MIZOD, if it is adopted in the local jurisdiction?

*Response: Grandfathering or legal nonconforming describes the status afforded certain properties, uses and activities that are legally existing prior to the adoption of zoning regulations or provisions that would otherwise make such uses illegal. Grandfathering provisions allows properties owners to continue to use the property so long as it continually occupied or operated in its current state and not expanded or modified.*

Question 11. Please further specify which entities or uses are exempt from the overlay zoning district?

*Response: Any use located within the MIZOD and utilized in connection with the operations of Fort Stewart/WAAF; properties owned or leased by a county or municipality; any public authority; military units; or other governmental agency; except for public or private schools are hereby declared incompatible and shall be exempted from the requirements of the MIZOD.*





## Other Implementation Activities

Question 12. What other initiatives have been undertaken by Fort Stewart or the affected jurisdictions that surround the Fort to minimize encroachment, ensure compatible land use planning and promote communication and coordination?

### *Response:*

*Fort Stewart/ HAAF: The Army Compatible Use Buffer (ACUB) was developed concurrently with the 2005 JLUS and encompasses off-post lands totaling 125,356 acres. The ACUB is the primary area in which Fort Stewart and its partners focus land protection efforts that promote and maintain compatibility with the military installation through conservation-related strategies. Conservation refers to a series of approaches designed to eliminate land use incompatibilities through voluntary transactions in the real estate market and local development processes. These strategies are particularly effective because they advance the complimentary goals of shifting future growth away from the installation, while protecting the environment, maintaining agriculture/silviculture, and conserving open spaces and rural character.*

*Fort Stewart and the Georgia Land Trust have been active in pursuing voluntary conservation easements within the ACUB. Under this initiative, the property owner is compensated for the assessed market value of the property's development entitlements. The property owner maintains ownership of the land, but it remains in permanent conservation. The property is subject to a conservation easement for a defined term and is typically allowed to continue to be used in a manner as it was prior to the conservation easement (i.e., farming, silviculture, hunting etc). To date, over 10,000 acres of land have been protected, either by establishment of permanent conservation easements or through acquisition by a conservation agency or organization. All ACUB transactions are with willing landowners who chose to voluntarily protect or sell their property.*

*Lands identified within the ACUB for conservation-related strategies are prioritized to ensure the greatest benefit from the limited resources which is available for such programs. Lands identified for conservation activities in the ACUB are prioritized into 4 Priority Areas. Priority Areas are determined by Fort Stewart/HAAF and their partners in collaboration with Chatham County RPC.*

*Fort Stewart Growth Management Partnership: Since September 2010, the Fort Stewart Growth Management Partnership (FSGMP) staff has been working with the Liberty Consolidated Planning Commission (LCPC) and the Long County-Ludowici Planning and Zoning Board to update the land development ordinances within their respective jurisdictions. As a component of this greater review of the respective codes of ordinances, each Planning Commission considered the inclusion of the proposed MIZOD into the zoning ordinance revisions for recommendation to the governing authorities.*

*FSGMP staff concluded its monthly workshops with the LCPC on May 18, 2011. After a presentation by the Coastal Regional Commission (CRC) regarding the model MIZOD and*



*discussion with officials from Fort Stewart, the LCPC opted to move forward model MIZOD integrated into the proposed revisions to the zoning ordinance for Liberty County and its municipalities. The draft recommendations have been prepared by the FSGMP staff and are under review by the LCPC staff. Upon completion of review by the LCPC staff, the FSGMP staff will present its final recommendation to the LCPC on August 17, 2011. Upon approval by the LCPC, the draft revisions to the zoning ordinances, including the MIZOD, will be forwarded to the appropriate governing authorities for consideration and adoption. It is expected that this process will be completed in late Fall of 2011.*

*The FSGMP staff concluded its monthly workshop meetings with the Long County-Ludowici Planning and Zoning Board on May 19, 2011. The workshops were part of an update the Long County-Ludowici Land Development Code to ensure quality growth and development in the County's primary growth area as identified in the Fort Stewart Regional Growth Management Plan. After a presentation by the CRC regarding the model MIZOD, the Long County Planning and Zoning Board opted not to move forward the model MIZOD, citing concerns over possible negative impacts of the provisions of the MIZOD on the local housing construction and sales market. The Board did express an interest in revisiting the MIZOD in the event that the proposed Townsend Bombing Range project is completed. The draft recommendations have been prepared by the FSGMP staff, and were presented to the Long County Planning and Zoning Board on July 21st. The next step will be a joint workshop between the Long County-Ludowici Planning and Zoning Board and representatives from the Ludowici City Council and the Long County Board of Commissioners.*

*Other initiatives which have been implemented pursuant to the recommendations in the 2005 JLUS include: Memorandums of Understandings (MOUs); the Regional Coordinating Committee (RCC); and an Outreach Program that partners with affected counties and cities located within the JLUS boundary. The MOUs between Fort Stewart and the local jurisdiction are agreements which document future efforts at collaboration between the two entities. The MOUs set out requirements which identify roles and responsibilities between the parties. Fort Stewart/HAAF initiated establishment of the JLUS RCC in collaboration with the CRC. The RCC is comprised of technical and elected officials from the affected counties and cities. The RCC meets regularly to discuss and coordinate JLUS implementation activities. Fort Stewart/HAAF has conducted an Outreach Program to bring Community Leaders and Community Planners to the installation for informative briefings and Field Tours of Mission Operations/Military Readiness Training Facilities and visit conservation areas.*



### Other Regulatory Provisions

Question 13. Georgia State Law requires local governments with military installations within their jurisdictions meet Georgia Law O.C.G.A. 36-66-6. O.C.G.A. 36-66-6 mandates notice is to be provided to the garrison commander for proposed rezonings involving land that is adjacent to or within 3,000 feet of any military installation or within 3,000 feet of Clear Zone and Accident Prevention Zones. How has this worked and what are the outcomes?

*Response: Georgia Law O.C.G.A. 36-66-6 has increased communication and cooperative land use planning between local jurisdictions and Fort Stewart/HAAF. However, there are only limited findings which demonstrate that this requirement has impacted local jurisdictional outcomes that have maintained land use compatibility within the area affected by the 3,000 feet military installation buffer requirement.*

Question 14. Is the MIZOD applicable to the Townsend Bombing Range?  
(Background – The Townsend Bombing Range in McIntosh County, Georgia belongs to Marine Corp Air Station Beaufort. The 5,182-acre Townsend Bombing Range is used routinely by all services to fine-tune the bombing and air combat skills of fighter pilots. The range is important to Georgia's economy because it is used by Moody Air Force Base in Valdosta and Robins Air Force Base in Warner Robins, as well as by the Beaufort Marine Corps Air Station in South Carolina. The Townsend Range, part of the Georgia Air Guard's Combat Readiness Training Center in Savannah directs more that 3,000 training flights each year).

*Response: No. The MIZOD has been developed as a model overlay zoning district for the local jurisdictions surrounding the Fort Stewart military installation as part of the implementation initiatives recommended in the Fort Stewart/HAAF JLUS completed in 2005. The purpose of the MIZOD is to ensure compatible growth management and to reduce encroachment from incompatible land uses surrounding the military installation. The Townsend Bombing Range is not within the area proposed for regulation by the MIZOD. However, if the local jurisdictions were interested, an overlay zoning district similar to the MIZOD may be developed for the affected lands surrounding the Townsend Bombing Range to minimize adverse impacts to property owners and reduce encroachment.*

Question 15. How will the MIZOD address glare and ambient light as it relates to air traffic? Additionally, how will the MIZOD address nighttime lighting as it relates to night operations and night vision?

*Response: The MIZOD includes provisions which prohibit uses, structures or activities which may interfere with air traffic movements such as landing, taking off or maneuvering as well as electronic, lighting and glare or human-made uses which may cause wildlife strike hazard with aircrafts. The MIZOD will not regulate lighting on lands located off-post unless it is related to the provisions identified above and related to WAAF.*





Question 16. How does the MIZOD incorporate the aircraft (i.e., helicopter) transition corridors between Hunter Army Airfield and Fort Stewart? What about aircraft holding patterns and over flights maneuvering due to bombing range and drop zone training missions?

*Response: The MIZOD does not include provisions that affect lands within the designated transition routes between Hunter Army Airfield and Fort Stewart as identified in the 2005 JLUS. Provisions that affect lands within the designated transition routes between Hunter Army Airfield and Fort Stewart are addressed in the individual JLUS MOUs that have been executed with local communities. The majority of the lands affected by the aircraft transition routes are located within Chatham County, extending also through Bryan and Liberty Counties, towards Wright Army Airfield/MidCoast Regional Airport. The Metropolitan Planning Commission, on behalf of the City of Savannah and Chatham County is in the process of conducting outreach on the proposed Airport Overlay District as part of their draft Uniform Zoning Ordinance which is specific to Hunter Army Airfield and its surroundings. The Cities of Richmond Hill and Flemington, as well as Bryan and Liberty Counties are affected by segments of the aircraft transition routes between Fort Stewart and Hunter Army Airfield. If these jurisdictions decide to adopt an overlay zoning district, they have the option during the calibration process to modify the MIZOD and include any provision they deem necessary for lands affected by the aircraft transition corridors. The MIZOD identifies Noise Zones, Clear Zones and Accident Potential Zones surrounding Wright Army Airfield and would subject lands located within these areas to be regulated accordingly.*



## **Guidelines for MIZOD Calibration and Implementation**

The MIZOD is a model ordinance and is not ready for implementation without further preparation by the local adopting jurisdiction. The MIZOD is not to be adopted by local jurisdictions without first completing a sequenced calibration process. The level of calibration required to refine the MIZOD to local conditions will depend on the local jurisdiction. Not all the provisions in the MIZOD may be applicable to each local jurisdiction and therefore, specific administrative policies and procedures may need to be revised to reflect local practices and conditions. These refinements are conducted during a technical calibration of the model ordinance prior to adoption by the jurisdiction.

Once a jurisdiction has determined it wants to pursue implementation of the MIZOD and incorporate the provisions into their land development ordinances, the calibration process may begin. Participants involved in this process consist of local staff, elected officials, legal counsel, local citizens, stakeholders and technical experts. Generally, in jurisdictions where there is insufficient staffing and/or legal counsel, the Coastal Regional Commission's resources can be utilized to assist with the calibration and adoption process. Organizationally, the calibration and adoption process is divided into a technical and implementation tract, which is further described below.

Technical Tract - focus on aspects related to the technical application and drafting of ordinances.

Implementation Tract - focus on the mechanics of adoption and administration of the ordinances/guidelines.

### **Zoning Maps and Outside Review Agencies**

In addition, the FAA and Fort Stewart should be consulted as outside review agencies during the calibration process of the model ordinance to local conditions.

## **TECHNICAL TRACT**

### **Staff Level**

Members: Coastal Regional Commission, state and regional officials, local planning director/staff, public works, and/or city/county manager or their representative.

Role: Develop and calibrate legislation/criteria, facilitate adoption and aid in consensus building process.

## **Elected Officials**

Members: City Council Member, County Commissioner, Mayor - typically only one of these is necessary.

Role: Advisory role as needed during the development of final draft - potentially an indirect role through staff reporting. Goal is to provide public consensus and advice on matters that relate to public need and any ancillary local goals and objectives.

## **Legal Counsel**

Members: Local Office of General Counsel representative, Staff Attorney or Consultant

Role: Provide guidance regarding legal matters related to application and details of the ordinance, support consensus building efforts as appropriated and provide guidance pertaining to developing draft and final ordinance language.

## **Local Citizens & Stakeholders**

Members: Advisory Committees, Home Owners Association, Community Representative(s), Interested Citizens, etc.

Role: The drafting and adoption of the final ordinance/guidelines is best informed by direct input from citizens through consensus building. The use of workshops, meetings and/or charrettes to gain consensus and input to determine the appropriate language and components of the documents/legislation is solicited through a formal and streamlined public involvement process.

## **Technical Experts**

Members: Consultants and technical advisors.

Role: Provide any services defined or necessary that cannot be provided by local or regional resources. Specifically, the use of technical experts in the fields of planning, design, legal counsel, military planners, building and safety, engineering and specialty consultants will provide the appropriate specialized services.

## **IMPLEMENTATION TRACT**

### **Staff Level**

Members: Coastal Regional Commission, state and regional officials, local planning director/staff, public works, and/or city/county manager or their representative.

Role: Provide assistance and review on behalf of the jurisdiction to apply the legislation, enact appropriate approvals/disapprovals of applications, guide any applicable updates or modifications to the legislation and provide information related to consistency with other appropriate documentation.

### **Elected Officials**

Members: City Council Member, County Commissioner, Mayor - typically only one of these is necessary

Role: Provide legislative role for formally enacting legislation. Additionally, as required provide approvals/disapprovals associated with application of legislation.

### **Legal Counsel**

Members: Local Office of General Counsel representative, Staff Attorney or Consultant

Role: Provide guidance regarding legal matters related to the application of the legislation on a (project) basis.

### **Local Citizens & Stakeholders**

Members: Advisory Committees, Home Owners Association, Community Representative(s), Interested Citizens, etc.

Role: During the process associated with applying the legislation, provide the appropriate input in support of in opposition of the application of the legislation in the appropriate forum.

### **Technical Experts**

Members: Consultants and technical advisors

Role: Provide any services defined or necessary that cannot be provided by local or regional resources. Specifically, the use of technical experts in the fields of planning, design, legal counsel, military planners, building and safety, engineering and specialty consultants will consist of review and the appropriate application of the legislation on a project basis.



JOINT LAND USE STUDY  
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# Appendix A

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## Model Ordinance Overlay Zoning District



# **Article [#.#]**

## **Military Installation Zoning Overlay District (MIZOD)**

### **Section [#].1 Purpose and Intent**

- A. The purpose of the Military Installation Zoning Overlay District (MIZOD) is to regulate, in a manner consistent with the rights of individual property owners and the requirements of military operations at Fort Stewart/Wright Army Airfield (WAAF), development of uses and structures that are incompatible with military operations; to sustain the economic health of the **[City, County]** and the region; to protect the safety and welfare from the adverse impacts associated with high levels of noise from flight operations and large-caliber weapons and the potential for aircraft accidents associated with proximity to WAAF operations; and to maintain the overall quality of life of those who live, work, and recreate in the **[City, County]**.

### **Section [#].2 Definitions**

For the purpose of this Section, certain terms and words are hereby defined:

**A-Weighted decibel:** A measure of sound that depicts higher frequency noise caused by small arms firing, aircraft use and vehicle operations.

**Attenuation:** Special design and construction practices intended to lower the amount of noise and vibration that penetrates the windows, door and walls of a building.

**Avigation:** Aerial navigation.

**Day-Night Sound Level (DNL):** The 24-hour average frequency-weighted sound level, in decibels, from midnight to midnight, obtained after additional of 10 decibels to sound levels before 7:00 a.m. and after 10:00 p.m.

**Decibel:** A logarithmic unit of measure of sound pressure.

**C-Weighted decibel:** A measure of sound that depicts low frequency noise and vibration associated with the firing of large-caliber weapons systems.

**Exterior door:** All exit doors of a building that are located between conditioned and unconditioned space. A basement, crawl space or garage is considered unconditioned space unless it is provided with a positive heat supply to maintain a minimum temperature of 50 degrees Fahrenheit.

**Habitable space:** A space or room in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, solariums, sunrooms and similar areas are not considered habitable space.

### **Section [#].3 Relationship to Zoning Districts**

- A. The MIZOD shall be designated on the Official Zoning Map and its boundaries shall be based on the Fort Stewart/Hunter Army Airfield Joint Land Use Study, as amended.
- B. In all zoning districts within the boundaries of the MIZOD, the regulations for both the underlying zoning district and the MIZOD regulations shall apply. Whenever, there is a conflict between the regulations of the underlying zoning district and MIZOD, the more restrictive regulation shall apply.

### **Section [#].4 Applicability**

- A. The standards for this section shall apply to those properties that lie within the MIZOD boundaries. When a parcel is split by the boundary of the MIZOD, only that portion of the parcel within the MIZOD shall be required to meet the provisions of this article.

### **Section [#].5 Establishment of MIZOD Zones and Boundary**

- A. For purpose of administering these regulations, there shall be three (3) noise subzones and three (3) air safety subzones that reflect where use restrictions or standards apply within the MIZOD. The boundaries for these noise and air safety subzones shall be defined on the Official Zoning Map.
- B. MIZOD Noise Zones. The boundaries for these noise subzones are inclusive of areas surrounding the Fort Stewart installation and WAAF and shall be based on the Fort Stewart/Hunter Army Airfield Joint Land Use Study, as amended.
  - (1) Noise Zone I (NZ I). This zone consists of an area between the 55 and 65 A-weighted Decibel Noise Level (ADNL) and 57 and 62 C-weighted Decibel Noise Level (CDNL) contour lines.
  - (2) Noise II (NZ II). This zone consists of an area between the 65 and 75 ADNL and 62 and 70 CDNL contour lines.
  - (3) Noise III (NZ III). This zone consists of an area in which the contour lines are greater than 75 ADNL and 70 CDNL.
- C. MIZOD Air Safety Zones. The boundaries for these air safety subzones adjacent to WAAF shall be based on the Fort Stewart/Hunter Army Airfield Joint Land Use Study, as amended.
  - (1) Clear Zone (CZ). This zone is an area at the immediate ends of the runway 1,000 feet wide by 3,000 feet long in which there is a high potential for accidents.

- (2) Accident Potential Zone I (APZ I). This zone is an area leading to the runway beyond the CZ, 1,000 feet wide extending 2,500 feet in which there is a significant potential of accidents.
- (3) Accident Potential Zone II (APZ II). This zone is an area leading to the runway beyond the APZ I, 1,000 feet wide and extending 2,500 feet in which there is a moderate potential for accidents.
- D. **Parcels Located Within More Than One Subzone.** In the event a lot or parcel of record is located within more than one zone identified in this article, the entire lot shall be subject to the restrictions of the zone which most restricts development of the lot.

#### **Section [#].6 Use Regulations**

- A. Any use permitted in the underlying zoning district in which the proposed use is located shall be allowed in the MIZOD, except as expressly prohibited within the provisions of this article and provided that additional standards set forth in this article are met. References to permitted uses as provided within this article are conditioned upon the said use being in compliance with permitted uses within the underlying zoning district.

#### **Section [#].7 Permitted Uses in Relation to MIZOD Noise Zones**

- A. The use of a building or premises for any use permitted under Section [#].6 shall be allowed in the MIZOD if it lies within the specified noise zone as set out in Figure [#].7 shown at the end of this article and conditioned upon compliance with Section [#].12 of this article.
- B. Where property is undeveloped, only such portion of it as is actually within the noise zone shall be considered within that noise zone. However, at such time as said property shall be subdivided or platted, any platted buildable lots intersected by a noise zone shall be deemed to be wholly within the highest noise zone.

#### **Section [#].8 Conditional Permitted Uses in Relation to MIZOD Noise Zones**

- A. The use of a building or premises for a use designated Y[1] as set out in Figure [#].7 shown at the end of this article is permitted in the MIZOD if it lies within the specified noise zone and is in conformance with the requirements of Section [#].12 of this article and the conditions prescribed herein:
- (1) A building permit may be issued by the **[Zoning Administrator/Building Official]** provided that the building plan shows a design and construction that incorporates sound attenuation features to achieve an outdoor to indoor noise level reduction (NLR) of at least 25 decibels, which shall include but not limited to the

requirements described below in addition to all other applicable requirements of the building code, as amended:

- (i) All exterior doors shall be either:
    - a. Solid-core or metal-clad construction, or
    - b. Separately equipped with wood or metal storm door, or
    - c. Multiple-glazed.
  - (ii) Multiple-glazed windows shall be provided for all habitable space.
  - (iii) Through-the-wall/door mailboxes, venting skylights, jalousie windows or other direct openings from the interior to the exterior of the building shall be prohibited.
  - (iv) Mechanical ventilation shall be provided of a type and design to provide adequate environmental comfort with all doors and windows closed during all seasons. Window and through-the-wall ventilation units shall not be used. Commercial cooking areas are exempt from these conditions.
- B. The development of residential uses within Noise Zone II, designated Y[2] as set out in Figure [#].7 should only be approved in the absence of viable development options and as a result of a determination and evaluation indicating that a demonstrated community need for residential use would not be met if development were prohibited. This requirement is due prior to approvals.

#### **Section [#].9 Permitted Uses in Relation to MIZOD Air Safety Zones**

- A. The use of a building or premises for any use permitted under Section [#].6 shall be allowed in the MIZOD pursuant to the specified air safety zone regulations as set out in Figure [#].9 shown at the end of this article.
- B. Where property is undeveloped, only such portion of it as is actually within the air safety zones shall be considered within that air safety zone. However, at such time as said property shall be subdivided or platted, any platted buildable lots intersected by an air safety zone shall be deemed to be wholly within the highest air safety zone.
- C. Only single-family detached dwellings with a minimum lot size of 2.5 acres are permitted within the APZ II air safety zone.

#### **Section [#].10 Additional Regulations in Relation to MIZOD Air Safety Zones**

- A. Interference. No use is permitted within the MIZOD Air Safety Zones that creates electrical interference with radio communication between an Air Traffic Control (ATC) facility and an aircraft; or to make it difficult for pilots to distinguish between airport lights and other lights; or to cause glare in the eyes of pilots using the airport; or to impair visibility in the vicinity of the airport; or to otherwise endanger the landing, taking off or maneuvering of aircraft at an airport or in the vicinity of an airport.

- B. Height. Maximum height limits for structures exist for areas in close proximity to the runways of the WAAF. These height limits shall apply to all structures including, but not limited to, buildings, wireless telecommunication facilities, broadcast transmission towers and construction cranes. The maximum limits are generally based upon the path of aircraft that are taking off from, landing on or circling in a holding pattern around the runway and vary based on distance from the runway. The **[Height Limit Map]** (To-Be-Developed) is based upon the Approach and Clear Zone Plans. When the maximum height permitted by the underlying zoning district and this overlay district conflict, the more restrictive height shall apply. All new wireless telecommunication facilities and broadcast transmission towers meeting the requirements of this article shall be constructed with lights on the tower.
- C. Aircraft Wildlife Strike Hazards. Human-made uses such as retention ponds, roosting habitats on buildings, landscaping, putrescible-waste disposal operations, wastewater treatment plants, agricultural or aquaculture activities, surface mining, or wetlands, which may be used by wildlife for escape, feeding, loafing, or reproduction are prohibited. Wildlife use of areas within an airport's approach or departure airspace, aircraft movement areas, loading ramps, or aircraft parking areas may cause conditions hazardous to aircraft safety. Human-made uses shall be sited in accordance with the following criteria to achieve adequate separation between the attractant and aircraft movement:
- (i) **[Criteria to be developed in conjunction with City, County and Garrison Commander]**

#### **Section [#].11 Real Estate Disclosure**

- A. All real estate transactions within the MIZOD shall include a notice disclosing the proximity of the property to the Fort Stewart/WAAF installation, except such uses or properties exempted by this article. The notice shall be affixed to all listing agreements, sales and lease contracts, subdivision plats, marketing materials and seller's property disclosure statement or similar documents provided to prospective buyers and lessees. The real estate disclosure notice shall conform to the provisions contained in the model notice, a copy of which is identified in Figure [#].11 shown at the end of this article. Disclosure is required as soon as practicable, but must be before execution of a contract, i.e., before making or acceptance of an offer.

#### **Section [#].12 Avigation and Noise Easements**

- A. All uses permitted within the MIZOD, except the area within the Noise Zone (NZ I) boundary and uses or properties exempted by this article, shall be conditioned upon the grant by the property owner of an avigation and noise easement to the **[City, County]**. Such easement shall be a condition of subdivision, planned unit development, special permit, use permit, building permit or similar permit. The avigation and noise easement is to be submitted pursuant to the terms of this article and shall conform to the provisions contained in the model avigation and noise easement, a copy of which is shown in Figure [#].12 at the end of this article.



- B. An executed copy of the avigation and noise easement for said property shall be provided to the **[City, County]** and kept on file as proof of easement. All avigation and noise easements shall be recorded with the **[County]** Clerk of Court at the property owner's expense.

### **Section [#].13 Pre-Existing Uses**

- A. Any existing use, which was lawfully established at the time of the effective date of this article, may be continued; although, such use does not conform to the provisions hereof. However, the requirements set forth in this section shall be applicable to the portion of the use subject to enlargement, extension, conversion, reconstruction or structural alteration, and not be retroactive to the entire pre-existing structure. Nothing shall prohibit the reconstruction of a building legally in use at the time of the adoption of this article. A request for enlargement, extension, conversion, reconstruction or structural alteration of a pre-existing use which does not conform to the provisions of this article shall be processed through the **[Permit]** procedures as set forth in the **[Zoning Ordinance]**.
- B. The **[Permit]** to enlarge, extend, convert, reconstruct, or alter a structure lawfully in existence at the time of the enactment of this section, shall not be conditioned upon the execution of an avigation and noise easement pursuant to Section [#].12.

### **Section [#].14 Enforcement and Exemption**

- A. Prior to the issuance of a building permit or other certificate, the **[Zoning Administrator/Building Official]** shall ensure the proposed building, premises or development is in compliance with the requirements of this article.
- B. The **[Garrison Commander]** or its designee shall be informed of all requests for development within the MIZOD, except the area within the Noise Zone (NZ I) boundary. This provision does not supersede or modify existing State or Federal laws. The **[Zoning Administrator/Building Official]** shall forward a copy of all applications to the **[Garrison Commander]** prior to issuance of any permits. The **[Garrison Commander]** or its designee shall verify receipt of such information and, within a reasonable time period, forward any comments concerning the request to the **[Zoning Administrator/Building Official]**.
- C. Any use located within the MIZOD and utilized in connection with the operations of Fort Stewart/WAAF; properties owned or leased by the **[City, County]**; any **[Public]** Authority; military units; or other governmental agencies, except for private or public educational facilities are hereby declared compatible and shall be exempted from the requirements of this article.

## **Section [#].15 Protection**

- A. The degree of protection provided by this article is reasonable for regulatory purposes and is based on planning, engineering and scientific methods of study and in coordination with aviation and defense agencies. This article does not imply that areas outside of the MIZOD area will be totally free from noise impacts and aircraft hazards, and, therefore, shall not create a liability on the part of **[City. County]**, or any of its officers or employees, for any damages resulting from reliance on this article.

## **Section [#].16 Variances**

- A. Variances shall not be permitted from the height limits or use regulations for properties within any Noise Zone or Air Safety Zone of this overlay district. Additionally, no application for a variance to the other requirements of this article may be considered by the **[Zoning Board of Appeals]** unless a copy of the application has been furnished to the **[Garrison Commander]** or its designee for a written recommendation as to the aeronautical effects of the variance. If the **[Garrison Commander]** or its designee does not respond to the application within 30 days after receipt, the **[Zoning Board of Appeals]** may act on its own to grant or deny the application.

**Figure [#].7  
Generalized Use Matrix for MIZOD Noise Zones**

<b>Permitted Within Each Noise Zone</b>	<b>NZ I</b>	<b>NZ II</b>	<b>NZ III</b>
Residential	Y	Y [1][2]	N
Manufactured Housing	Y	N	N
Industrial	Y	Y	Y
Retail & Service Businesses	Y	Y [1]	Y [1]
Office	Y	Y [1]	Y [1]
Restaurants	Y	Y [1]	Y [1]
Service stations & repair services	Y	Y	Y
Health & childcare	Y	Y [1]	N
Hotels/motels	Y	Y [1]	N
Education & religious facilities	Y	Y [1]	N
Public Assembly	Y	Y [1]	N
Indoor sport, recreation & entertainment facilities	Y	Y [1]	N
Outdoor sport, recreation & entertainment facilities	Y	Y	N
Parks, Open Space & Golf Courses	Y	Y	N
Agriculture	Y	Y	Y

Notes:

Y – Permitted

N – Not Permitted

1. Development is required to incorporate sound attenuation features as a condition of building permit issuance, as described in Section [#].8.A of this article.

2. The development of residential uses should only be approved in the absence of viable development options and as a result of a determination and evaluation indicating that a demonstrated community need for residential use would not be met if development were prohibited, as described in Section [#].8.B of this article.

**Figure [#].9  
Generalized Use Matrix for MIZOD Air Safety Zones**

<b>Permitted Within Each Air Safety Zone</b>	<b>APZ II</b>	<b>APZ I</b>	<b>CZ</b>
Residential	Y [1]	N	N
Manufactured Housing	N	N	N
Industrial	Y	Y	N
Retail & Service Businesses	Y	N	N
Office	Y	N	N
Restaurants	N	N	N
Service stations & repair services	Y	Y	N
Health & childcare	N	N	N
Hotels/motels	N	N	N
Education & religious facilities	N	N	N
Public Assembly	N	N	N
Indoor sport, recreation & entertainment facilities	Y	Y	N
Outdoor sport, recreation & entertainment facilities	Y	Y	N
Parks, Open Space & Golf Courses	Y	Y	N
Agriculture	Y	Y	N

Notes:

Y – Permitted

N – Not Permitted

1. Only single-family detached dwellings with a minimum lot size of 2.5 acres are permitted pursuant to Section [#].9.C of this article.

**Figure [#].11**  
**Model Real Estate Disclosure Notice**

Properties located within the Military Installation Zoning Overlay District (MIZOD) for Fort Stewart/WAAF should be aware that such property may be subject to overflights by commercial, general aviation, and military aircraft, and subject to noise, vibration, exhaust, air and vehicular traffic and other conditions associated with the operation of this military installation. Land within the MIZOD, particularly during periods of more intense military activity, can be subject to noise high enough to trigger annoyance. The military installation is operational 24 hours per day.



**Figure [#].12**  
**Model Avigation and Noise Easement**

INDENTURE made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, between \_\_\_\_\_, hereinafter called "Grantor", and **[City, County]** a public body corporate and politic, hereinafter called **["City, County"]**:

WHEREAS, Grantor is the owner in fee simple of a certain tract of land situated in **[Name]** County, State of Georgia, more particularly described as:

See attached Exhibit "A",

said tract of land being hereinafter referred to as "Grantor's Land"; and

WHEREAS, Grantor has agreed in consideration of \_\_\_\_\_ (\$\_\_\_\_\_) and other valuable consideration, receipt of which is hereby acknowledged, to grant **[City, County]** the following Avigation and Noise Easement for the right of flight and consequent aircraft noise over Grantor's Land.

NOW THIS INDENTURE, WITNESSETH:

Grantor, for itself, its heirs, successors and assigns, for the said consideration, hereby grants and conveys to the **[City, County]**, the following Avigation and Noise Easement for the right of flight and consequent aircraft noise over Grantor's Land.

NOW THIS INDENTURE, WITNESSETH:

Grantor, for itself, its heirs, successors and assigns, for the said consideration, hereby grants and conveys to the **[City, County]**, its successors and assigns, a perpetual easement and right-of-way for the unobstructed and unrestricted flight of aircraft in, through and across the airspace over and above Grantor's Land, at any legally permissible altitude, and the right, to the extent permitted by law, to make noise and cause fumes and disturbance arising from the ground and flight operations of all civil and military aircraft to, from and upon the Fort Stewart/WAAF military installation, regardless of the means of propulsion.

The Grantor, for itself, its heirs, successors, and assigns, does hereby waive all right to and interest in any claim or cause of action against the **[City, County]**, arising out of or from any legally permissible noise, vibration, avigations, firing of large-caliber weaponry or detonations, pollution, light or noise generated from, above or on military property, or sonic disturbance of any description, caused by flight operations of civil and military aircraft regardless of the means of propulsion, to, from and upon Fort Stewart/WAAF, which may result in damage to land or to any person, structure or other property located upon Grantor's Land, excepting, however, any claim or cause of action for any damage or injury to person or property resulting from any aircraft, or object there from, falling on, propelled into, or striking any person or property on Grantor's land.

The Grantor, for the said consideration, further agrees, that if Grantor or its heirs, successors or assigns, should sell or alienate any portion of Grantor's Land, Grantor, its heirs, successors or assigns shall include in every deed or conveyance evidencing such sale or alienation, a recitation that the grant is subject to all conditions contained within this Avigation and Noise Easement, and further as a condition of such transaction, Grantor shall require each Grantee to include such recitation in any subsequent deed or conveyance of any of the property herein above described as Grantor's Land.

In the event any condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such easement, condition or provision shall in no way affect any other condition or provision herein contained.

It is understood and agreed that this easement shall be binding upon the heirs, administrators, executors, and assigns of the Grantor, and that this easement shall run with Grantor's Land.

TO HAVE AND TO HOLD said Avigation and Noise Easement hereby granted unto the **[City, County]** for the use of the Fort Stewart/WAAF military installation, its successors, and assigns.

IN WITNESS WHEREOF, the undersigned has caused its signature to be affixed this day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a duly appointed and qualified notary public, personally appeared \_\_\_\_\_, to me personally known to be the same and identical person who signed the above and foregoing instrument and he did acknowledge the execution thereof to be his voluntary act and deed and that of \_\_\_\_\_.

WITNESS my hand and seal on the date last aforementioned.

\_\_\_\_\_  
Notary Public



JOINT LAND USE STUDY  
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# **Appendix B**

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## **Military Installation Overlay Zoning District (MIZOD)**

### **Frequently Asked Questions**



JOINT LAND USE STUDY

## MILITARY INSTALLATION ZONING OVERLAY DISTRICT

# MIZOD

## Frequently Asked Questions

### **What is the Military Installation Zoning Overlay District “MIZOD”?**

The MIZOD is a model zoning overlay district intended to ensure compatible land use and growth management for affected jurisdictions surrounding Fort Stewart. The MIZOD is a voluntary zoning tool which has been developed for use in conjunction with existing zoning regulations.

### **What does sound “attenuation” mean?**

Sound attenuation is simply defined as reducing the intensity of a sound.

### **What is the purpose of the MIZOD?**

The purpose of the MIZOD is to address the military and public concern from noise and air safety created by the military training activities at Fort Stewart and Wright Army Airfield (WAAF) by establishing zoning regulations for land uses and structures that are incompatible with military operations. The intent of the MIZOD is to reduce encroachment around Fort Stewart and to maintain the overall quality of life of those who live, work and recreate in the region.

### **What is an Overlay Zoning District?**

An overlay zoning district is established by local ordinance and prescribes supplemental regulations to address special land use concerns. Overlay districts are applied to an area in combination with the underlying or base zoning district.

### **How will the MIZOD affect my property?**

Depending on the MIZOD subzone in which a property is located within, there is a hierarchical set of specific standards that affect new uses and structures. All structures built prior to the effective date of the MIZOD designation shall have legal nonconforming status.

### **What does “legal nonconforming status” mean?**

‘Legal nonconforming status’, or ‘grandfathered’, refers to the continued use of all structures occupied by noise sensitive land uses as legally existing prior to rezoning. All grandfathered structures can individually continue until such time as they are substantially damaged or destroyed.

### **Will I be required to make changes to my house or building?**

No, any ‘grandfathered’ structures can remain unaltered. However, new construction must comply with the regulations upon adoption by the governing jurisdiction.

### **What land uses are considered “noise sensitive” uses?**

The MIZOD overlay identifies the following noise sensitive uses (generalized examples); residential structures, assisted living facilities, churches, in-patient medical facilities, funeral homes, child care facilities, libraries, and schools. For a detailed list please refer to the model overlay zoning district.

### **What is the source of the noise and air safety that makes the MIZOD necessary?**

Fort Stewart is the primary training site for the U.S. Army’s 3rd Infantry Division, supporting a wide range of training operations including small arms and large caliber firing ranges, simulation facilities, ordnance detonation, maneuver areas, combat medicine, and combat air-drop training. Primary noise generators include gunfire, low-level helicopter flights, and fixed-wing aircraft.



JOINT LAND USE STUDY  
IMPLEMENTATION

# Appendix C

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## **University of Georgia (UGA) Land Use Clinic Memorandum: Military Installations and Real Estate Disclosure Requirements**



# Memo

To: Kevin Sullivan & Jamie Baker Roskie

From: Kristen Bollinger & Meghan Ryan

Date: July 18, 2011

Re: Military installations and real estate disclosure requirements

## Question Presented

Can municipalities in Georgia enact ordinances requiring the disclosure of real property's proximity to a military installation to purchasers or lessees, despite a lack of statewide legislation expressly requiring such disclosure? If so, what methods are most likely to result in notification of property buyers or lessees?

## Brief Answer

Other states employ statewide legislation or local ordinances that require disclosure of a property's proximity to a military installation. Contrastingly, Georgia law neither requires disclosure of this information, nor does it expressly authorize municipalities to enact this requirement on their own. Yet some jurisdictions in Georgia have enacted ordinances that require disclosure of this information through statements, through land use planning and administrative policy. (Also, at least one military installation in Georgia uses noise and smoke easements.) Moreover, the Georgia Home Rule Act and a statute adopted in 2003 bolster the argument that local governments are able to mandate disclosure of a property's location near a military installation.

## Discussion

### A. Disclosure Requirements in Other States

Many jurisdictions throughout the country that are situated near military installations or within noise or accident potential zones expressly require disclosure of this proximity in real estate transactions.<sup>1</sup> These ordinances generally require disclosure either by statements from the seller or real estate broker, disclosure through planning mechanisms like statements on site plans and subdivision plats, or a combination of these approaches. In Escambia County, Florida, any owners of real property within Airfield Influence Planning Districts, noise zones around military installations, or established Real Estate Disclosure Areas around the local airport are required to give buyers or lessees written notice of this condition.<sup>2</sup> Similarly, Arizona requires that sellers of residential property “in the vicinity” of a military installation disclose this fact in writing to prospective buyers.<sup>3</sup> Arizona additionally allows a third party authorized by the buyer or seller to provide a disclosure report stating the property’s proximity to a military installation.<sup>4</sup>

Most of these ordinances are tied to their municipality’s zoning plans, such that a property’s location within a certain zone or district triggers the duty to disclose. Thus, transactional disclosure methods often overlap with land use planning mechanisms designed to disclose the same information. For example, Hampton, Virginia’s Code requires written notification for possible buyers of land located wholly or partially in the Noise Contour District

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<sup>1</sup> See Tara Butler, *State Strategies to Address Encroachment at Military Installations*, ALI-ABA Course of Study, August 17-19, 2006 (briefly discussing the land use strategies of several municipalities located near military installations).

<sup>2</sup> *Escambia County, Fla.*, Code §58-2(d) (2011).

<sup>3</sup> Ariz. Rev. Stat. Ann., § 28-8484 (2011) (West).

<sup>4</sup> *Id.* § 33-423(A) (2011) (West).

surrounding Langley Air Force Base.<sup>5</sup> The county simultaneously requires written disclosure statements revealing a property's zoning status to be placed on any subdivision plats and site plans.<sup>6</sup> High Point, North Carolina, enacted a threefold disclosure ordinance for property located in its Airport Overlay District.<sup>7</sup> The Code requires that sellers and brokers provide prospective buyers with a written statement of disclosure.<sup>8</sup> The code also mandates written statements on recorded subdivision plats in the district,<sup>9</sup> and directs the local department of planning and development to notify lot owners when additional lots are included in the Airport Overlay District.<sup>10</sup>

Most local disclosure ordinances outside of Georgia share a common factor: they are bolstered by statewide legislation requiring – or authorizing local jurisdictions to require – disclosure pertaining to a property's location near a military installation. For instance, Maryland has adopted a broad, statewide statute applicable to all but seven enumerated counties that requires sales contracts for residential property to disclose in writing that the property may be located near a military installation.<sup>11</sup> More narrowly, Virginia<sup>12</sup> and Arizona<sup>13</sup> require a written disclosure only if a property is located within certain zones or districts pertaining to military installations.

Other states use statewide legislation to require disclosure of zoning and land use circumstances affecting a property; these circumstances can include the proximity of a military

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<sup>5</sup> *Hampton County, Va., Code* § 22-54(b) (2011).

<sup>6</sup> *Id.* § (a).

<sup>7</sup> *See High Point County, N.C., Code* § 9-4-4(d) (2011).

<sup>8</sup> *High Point County, N.C., Code* § 9-4-4(d)(4)(b) (2011).

<sup>9</sup> *Id.* § (c).

<sup>10</sup> *Id.* § (d).

<sup>11</sup> Md. Code, Real Property §14-117(k)(2) (2011).

<sup>12</sup> Va. Code Ann. §55-519.1 (2011).

<sup>13</sup> Ariz. Rev. Stat. Ann., §28-8484 (2011).

installation. For example, North Carolina requires disclosure of the zoning laws affecting a property and “any encroachment of the real property from or to adjacent real property.”<sup>14</sup> Florida has adopted extensive legislation dealing with the zoning of airports<sup>15</sup> and has made a legislative finding of the problems caused by incompatible land uses surrounding military installations.<sup>16</sup> But Florida has enacted no statewide legislation that specifically requires disclosure of a property’s location near a military installation or within a noise, flight, or accident potential zone. The ordinance in Escambia County, therefore, was adopted without the explicit authorization of statewide legislation. This suggests that local governments in Georgia may have authority to pass disclosure requirements.

#### B. The Law in Georgia

Georgia law does not compel the disclosure of a property’s proximity to a military installation or its location within a noise, flight, or accident potential zone. It only imposes a general disclosure duty under real estate law,<sup>17</sup> and requires special consideration when zoning changes occur near military bases.<sup>18</sup> Yet some jurisdictions autonomously require the disclosure of this information and use four principal means: land-use planning, easements, administrative policy, and disclosure statements. Of the four, planning measures and easements are more likely to reach potential buyers or lessees of residential properties.

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<sup>14</sup> N.C.G.S. §47E-4(b)(5) (2011).

<sup>15</sup> See Fla. Stat. Ann. §333.01 - .14 (2011).

<sup>16</sup> See Fla. Stat. Ann. §163.3175 (1-9) (West 2011) (providing that local governments may collaborate with military installations and related organizations in instances when the Florida Council on Military Base and Mission Support recommends that the Legislature alter military installations and nearby local governments).

<sup>17</sup> See O.C.G.A. §10-6A-5 (2011).

<sup>18</sup> See *id.* §36-66-6.

The proximity of a property to a military institution may, in some cases, fall under the general duty to disclose imposed on sellers by case law<sup>19</sup> and on real estate brokers by the Brokerage Relationships in Real Estate Transactions Act (BRETA).<sup>20</sup> BRETA limits brokers' and sellers' duties of disclosure<sup>21</sup> by requiring buyers to perform reasonably diligent inspection by consulting, among other things, "land use maps and plans; zoning ordinances; [and] recorded plats and surveys,"<sup>22</sup> by which they might independently discover a property's nearness to a military installation.

Atop the foundation established by BRETA and case law, Georgia law uses land use planning measures in the Zoning Procedures Law (ZPL) require rapport between local governments and military installations when land immediately in the vicinity of a military installation is being rezoned.<sup>23</sup> When a proposed rezoning involves land "adjacent to or within 3,000 feet of any military base or military installation," or land "within the 3,000 foot Clear Zone and Accident Prevention Zones Numbers I and II," the statute requires that the local planning department or equivalent perform an investigation and make a recommendation based on factors listed in the ZPL.<sup>24</sup> These factors include whether the new zoning will allow the land to be used in a way that is "suitable"<sup>25</sup> or detrimental<sup>26</sup> to the use of the property within 3,000 feet of the military installation. Additionally, the department must ask the installation's commander for a

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<sup>19</sup> See 13 Ga. Jur. Personal Injury and Torts §17:20 (2011).

<sup>20</sup> See O.C.G.A. §10-6A-5 (2011).

<sup>21</sup> Memorandum from Meghan Ryan to Tricia Reynolds and Jamie Baker Roskie 3-5 (December 4, 2008) (on file with recipients).

<sup>22</sup> See *id.*

<sup>23</sup> Email from Will Johnson, Chief, Planning Dep't, Columbus Consol. Gov't, to Duncan Ross, Senior Planner, Prosser Hallock (June 14, 2011, 3:19 pm EST) (on file with author); see also O.C.G.A. §36-66-6 (2011).

<sup>24</sup> O.C.G.A. §36-66-6(a) (2011).

<sup>25</sup> *Id.* § (b)(1). "Suitable" is not a term of art developed by case law.

<sup>26</sup> O.C.G.A. §36-66-6(b)(2) (2011).

“written recommendation and supporting facts” regarding how rezoning will affect that land’s use.<sup>27</sup> A prospective buyer would likely learn of a property’s zoning in the course of the inspection required by BRETA. However, whatever additional notice the ZPL may afford is mitigated by the statute’s application only to governments that maintain planning departments or equivalents.<sup>28</sup> Thus, although it requires special consideration when the use of land near a military installation stands to change, the ZPL, alone, is unlikely to result in notification of prospective buyers and lessees of a property’s proximity to a military institution.

A second method of disclosing a property’s proximity to a military installation is an easement. An easement imparts an interest “in the land in and over which it is to be enjoyed.”<sup>29</sup> It grants to the owner of one parcel of land (i.e. the dominant estate) the right “to use the land of another [i.e. the servient estate] for a special purpose not inconsistent with the general property.”<sup>30</sup> The owner of the servient estate retains the right to possess and use it in a way that does not conflict with the easement.<sup>31</sup> An easement may be created in multiple ways, but easements by express grant are likely the most relevant to the question at hand.<sup>32</sup> Under Georgia law, an appurtenant easement attaches to a dominant estate and passes to subsequent owners.<sup>33</sup> An express appurtenant easement is created by express grant when an agreement for use of the servient estate is executed.<sup>34</sup> This requires “all the

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<sup>27</sup> *Id.* §(a); *see also* Letter from John Cantrell, Zoning Administrator, Columbus Consol. Gov’t, to Colonel Keith Lovejoy, Office of the Garrison Commander, Fort Benning, GA (Feb. 21, 2008) (on file with Duncan Ross, Senior Planner, Prosser Hallock) (interpreting this section in the same manner).

<sup>28</sup> *See* O.C.G.A. §36-66-6(a) (2011).

<sup>29</sup> *Barton v. Gammell*, 283 S.E.2d 445, 446 (Ga. Ct. App. 1977).

<sup>30</sup> *Hollomon v. Board of Ed. of Stewart County* 147 S.E. 882, 884 (Ga. 1929).

<sup>31</sup> *See* Daniel F. Hinkel, *Pindar’s Georgia Real Estate Law and Procedure With Forms* § 8-25 (6th ed. Part II 2011).

<sup>32</sup> *Id.* § 8-8.

<sup>33</sup> *Id.* § 8-3.

<sup>34</sup> *Id.* § 8-3.



formalities of a conveyance of an interest in land,” including valuable consideration and a written document.<sup>35</sup>

Moreover, to be most effective, the easement must be recorded.

If an easement between a buyer and seller is not recorded, it functions as a personal contract.<sup>36</sup> If one then purchases the servient estate without actual<sup>37</sup> or constructive<sup>38</sup> notice of the easement, one takes the title free of the easement.<sup>39</sup> But if an easement is properly recorded, “the world has constructive notice of such easement whether or not they have actual notice.”<sup>40</sup> Under Georgia law, a prospective buyer is on notice of an easement if ordinary diligence and inspection would alert one to the possibility of its existence.<sup>41</sup> In the course of satisfying the requirements of BRETA, a prospective purchaser would inspect the property as well as the property’s chain of title, and would thereby encounter any easements on the property or at least be on notice of them. In this manner, an easement is an effective means of disclosing a property’s proximity to a military installation.

Fort Benning in Columbus, Muscogee County, Georgia creates noise easements and smoke easements by express grant.<sup>42</sup> The noise easement grants Fort Benning the right to continue its normal and necessary activities, though resultant noise may conflict with use of servient estates for residential purposes.<sup>43</sup> The smoke easement grants Fort Benning the right to

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<sup>35</sup> *Barton v. Gammell*, 283 S.E.2d 445, 447 (Ga. Ct. App. 1977).

<sup>36</sup> 2 Mark T. Roohk, *Georgia Jurisprudence: Property* § 21:5 (Part Five 2011).

<sup>37</sup> See Blacks 9<sup>th</sup> edition 2009 (indicating that “actual notice” means actual knowledge).

<sup>38</sup> See *id.* (indicating that “constructive notice” means that one reasonably should know).

<sup>39</sup> Daniel F. Hinkel, *Pindar’s Georgia Real Estate Law and Procedure With Forms* § 8-25 (6th ed. Part II 2011).

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* § 8-24.

<sup>42</sup> *Sample Noise Easement* (Fort Benning, Muscogee County, Georgia 2011); *Sample Smoke Disclosure* (Fort Benning, Muscogee County, Georgia 2011).

<sup>43</sup> *Sample Noise Easement* (Fort Benning, Muscogee County, Georgia 2011).

continue its military training and land management activities though they may produce “smoke and other conditions” that impede residential use of servient estates.<sup>44</sup> Creating an easement thus notifies the servient estate’s owner of a military installation’s proximity. Yet because these easements attach to the land and are ascertainable via reasonable inspection as required by BRETA, they notify all subsequent owners too. So doing, easements are an effective means of disclosure and are also valid under Georgia law.

The planning department of Columbus, Muscogee County, conditions rezoning of land within 3,000 feet of a military installation with the inclusion of these noise and smoke easements in closing documents or leases.<sup>45</sup> A buyer who signs the easements acknowledges that the property’s location may subject it “to conditions resulting from military training.”<sup>46</sup> A signatory also waives “common law rights to object to normal and necessary military training activities legally conducted” on the installation that interfere with residential use of the signatory’s property.<sup>47</sup> Additionally, the statement binds “heirs, successors, and assigns of Grantors.”<sup>48</sup> Columbus has not amended its Unified Development Ordinance to require these easements, but implements them as a matter of administrative policy through requirements implemented under the ZPL.<sup>49</sup> As a result, while this disclosure statement reaches the signatory of any document on

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<sup>44</sup> *Sample Smoke Disclosure* (Fort Benning, Muscogee County, Georgia 2011).

<sup>45</sup> Email from Will Johnson, Chief, Planning Dep’t, Columbus Consol. Gov’t, to Duncan Ross, Senior Planner, Prosser Hallock (June 14, 2011, 3:19 pm EST) (on file with author).

<sup>46</sup> *Sample Smoke Disclosure*, Columbus Consol. Gov’t, Muscogee County, Georgia (June 16, 2011); *Sample Noise Easement*, Columbus Consol. Gov’t, Muscogee County, Georgia (June 16, 2011).

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> Email from Will Johnson, Chief, Planning Dep’t, Columbus Consol. Gov’t, to Duncan Ross, Senior Planner, Prosser Hallock (June 16, 2011, 1:35 pm EST) (on file with author); *see also* Email from Duncan Ross, Senior Planner, Prosser Hallock to Will Johnson, Chief, Planning Dep’t, Columbus Consol. Gov’t, (June 16, 2011, 1:35 pm EST) (on file with author).

which it appears, the statement is still only used when land within 3,000 feet of a military installation is rezoned.

In the vicinity of the Robins Air Force Base, Houston, Twiggs, and Bibb counties, as well as the cities of Warner Robins and Byron have adopted a Base Environs Overlay District (BE).<sup>50</sup> The Houston County Code of Ordinances uses a threefold approach. First, the county “may provide a notice to all applicants for any development related permit” that the property is located in the BE.<sup>51</sup> Second, the code provides a written notice that must be placed on all final subdivision plats for land in the BE.<sup>52</sup> Last, the code requires development review for properties in the BE in addition to the standard zoning compliance process.<sup>53</sup> Development applications for property in the BE must be reviewed by the staff of the Middle Georgia Regional Development Center, the RAFB Civil Engineer, and the Houston County Zoning officer.<sup>54</sup> If an application satisfies this review, the applicant must then submit a preliminary plan for review.<sup>55</sup>

The first type of notice reaches only owners of BE property who apply for development-related permits, and the term “may” provides that the county is not required to give such a notice.<sup>56</sup> Thus, this notice provision is unlikely to inform potential buyers or lessees that a property is in the BE. The development review and the preliminary plan review apply only to new development projects, rather than existing residential structures, and are similarly unlikely

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<sup>50</sup> Email from Duncan L. Ross, Senior Planner, Prosser Hallock, to Kristen Bollinger and Kevin Sullivan, Land Use Planner, Coastal Reg'l Comm'n, Brunswick, GA (June 27, 2011, 9:14 EST) (on file with author).

<sup>51</sup> *Houston County, Ga., Code* § 74.4.6 (2011).

<sup>52</sup> *Id.* § 74.4.7.

<sup>53</sup> *Id.* § 74.4.8.

<sup>54</sup> *Id.* § 74.4.8 (2011); *see also id.* §74.4.9.

<sup>55</sup> *Id.* § 74.4.8.

<sup>56</sup> *See id.* § 74.4.6.

to reach potential buyers of residential property.<sup>57</sup> The plat notice, however, adheres to the plat of an entire subdivision, so a buyer of property in the subdivision would find the notice during the reasonable investigation required by BRETA.<sup>58</sup> Thus, of these provisions, the plat notice is likely the most effective in educating potential buyers or lessees of residential property.

This ordinance provides an effective means of disclosure and has been in use for over a decade, but it was enacted without express authorization by Georgia law.<sup>59</sup> Houston's ordinances have been employed by several other communities too, for Macon-Bibb County has incorporated the same provisions into its Comprehensive Land Development Resolution,<sup>60</sup> while the city of Warner Robins included the provisions in its code.<sup>61</sup> The ordinances' longevity and usage in multiple jurisdictions strongly suggests that local governments in Georgia effectively have authority to require the disclosure of a property's proximity to a military base.

The ability of Georgia jurisdictions to enact their own ordinances is governed by the Municipal Home Rule Act of 1965.<sup>62</sup> The Home Rule Act explicitly empowers local governments to "adopt clearly reasonable ordinances, resolutions, or regulations relating to ... property, affairs, and local government for which no provision has been made by general law and which are not inconsistent with the Constitution...."<sup>63</sup> Since ordinances regulating disclosure in real estate transactions clearly fall under the umbrella of "property, affairs, and local

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<sup>57</sup> See *id.* § 74.4.8.

<sup>58</sup> See O.C.G.A. §10-6A-5 (2008).

<sup>59</sup> Email from Duncan L. Ross, Senior Planner, Prosser Hallock, to Kristen Bollinger and Kevin Sullivan, Land Use Planner, Coastal Reg'l Comm'n, Brunswick, GA (June 27, 2011, 9:14 EST) (on file with author).

<sup>60</sup> *Macon-Bibb County, Ga., Code* § 20C.02(7) (2011); *id.* § 20C.02(8) (2011); *id.* § 20C.02(9) (2011).

<sup>61</sup> *Warner Robins, Ga., Code* § 74.4.6 (2011); *id.* § 74.4.7 (2011); *id.* § 74.4.8 (2011); *id.* § 74.4.9 (2011).

<sup>62</sup> O.C.G.A. §36-35-1 (2011).

<sup>63</sup> O.C.G.A. §36-35-3(a) (2011).

government,” the question of whether a municipality can enact an ordinance requiring more disclosure than is required by state statute or common law turns on whether such an ordinance would be deemed “clearly reasonable.”<sup>64</sup>

There is certainly an argument to be made that ordinances enacted to encourage compatible land use surrounding military installations and to protect these military bases from claims filed by nearby residents should be found “clearly reasonable,” particularly in light of the requirements of the ZPL.<sup>65</sup> This statute recognizes the inherent tensions in developing land around military installations and some of the concerns that result from incompatible land uses,<sup>66</sup> including the safety of landowners and citizens near the military base.<sup>67</sup> In light of this legislative recognition, it seems that a municipality’s attempt to address these problems on its own could be deemed “clearly reasonable.”

### Conclusion

Georgia law neither requires nor explicitly authorizes local governments to require disclosure of real property’s proximity to a military installation. There is at least one example of a local jurisdiction in another state that has enacted an ordinance requiring such disclosure in the absence of explicit sanctioning by its state’s legislature. In Georgia, some local governments have enacted a similar ordinance requiring such disclosure via land-use planning and disclosure statements. The power of these local governments to take such measures is bolstered by a

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<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> See Tara A. Butler, *State Strategies to Address Encroachment at Military Installations*, NGA Center for Best Practices, available at <http://www.nga.org/cda/files/032403MILITARY.pdf> (last visited July 8, 2011) (for discussion of the negative impacts of incompatible land use on military installations).

<sup>67</sup> See O.C.G.A. §36-66-6(b)(4) (2011).

precedent of over a decade, the Georgia Home Rule Act, and the policy argument that ordinances requiring the type of disclosure at hand satisfy the “clearly reasonable” standard.



JOINT LAND USE STUDY  
IMPLEMENTATION

# Appendix D

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## **Public Outreach Brochure Model Overlay Zoning District Workshop Series**





For Additional Information or Questions, contact:

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# The Fort Stewart / Hunter Army Airfield Joint Land Use Implementation Project Model Overlay Zoning District Workshop Series

## Background and Overview:

Click [here](#) to  
view the entire  
2005 Joint Land  
Use Study (JLUS)

This Model Overlay Zoning District is an implementation project of the Fort Stewart/HAAF Joint Land Use Study (JLUS), which was completed in 2005. The Fort Stewart/HAAF JLUS was prepared by the Coastal Regional Commission and funded by the Office of Economic Adjustment, Department of Defense (DoD) as a cooperative land use planning initiative among the U.S. Army, cities and counties surrounding this military installation. The ongoing JLUS implementation program seeks to establish and bridge the relationship between Fort Stewart and the community to avoid conflicts associated with future community growth. The JLUS objective is to protect the resident's quality of life, the property owner's rights and the existing and future mission of the Fort Stewart installation.

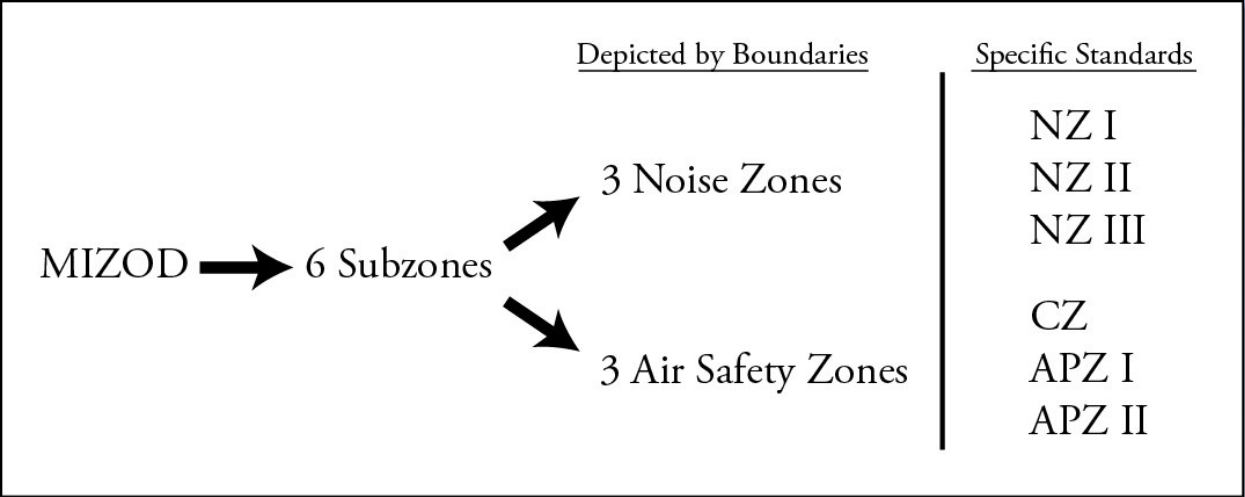


*"The intent of the Fort Stewart/HAAF JLUS is to identify, address and resolve encroachment issues between the military and its civilian neighbors to promote compatible land uses and growth management guidelines. Encroachment—urban development near military installations—can contribute to problems with the military's operational effectiveness when preparing for missions. It can also be disruptive to the civilian population, as well as public establishments such as schools and religious centers, that are located near the base."*

# Military Installation Zoning Overlay District

The Fort Stewart/Hunter Army Airfield Joint Land Use Implementation Project seeks to successfully implement the recommendations of the 2005 Joint Land Use Study (JLUS), update any changes that have occurred since the original document was created and provide analysis for future recommendations.

The Military Installation Zoning Overlay District (MIZOD) is being developed as the zoning tool to implement the policies of the Fort Stewart/HAAF JLUS and to regulate incompatible development surrounding the military installation. The MIZOD is divided into six (6) subzones, each having specific standards beyond what is required by the underlying zoning district. These subzones are categorized into three (3) Noise Zones and three (3) Air Safety Zones. The boundary of the MIZOD is derived from the boundary of the largest subzone, thus acting as an umbrella for the remaining five (5) subzones. The official boundary of the MIZOD was developed as part of the Fort Stewart/HAAF JLUS.



MIZOD Quick facts:

- The MIZOD is a voluntary Model Zoning Overlay District
- The MIZOD is developed for use in conjunction with existing zoning regulations by local municipal and county jurisdictions
- Each jurisdiction has some flexibility in the composition of the MIZOD they adopt, but...
- The MIZOD should remain consistent with the Fort Stewart/HAAF JLUS and Federal guidelines for land use compatibility surrounding military installations.
- The MIZOD provides a regulatory framework for communities to ensure compatible land use planning and development standards for off-post lands impacted by military activities

**Remember...**The MIZOD implements recommendations contained in the Fort Stewart/HAAF JLUS by protecting its future military mission and the economic health of the region and individual property rights. It also protects the health, safety, welfare and quality of life of residents and businesses in the surrounding municipalities and counties.

Click [here](#) to view a draft of the MIZOD.

Workshop Content:

Details of the MIZOD – What, Why and Benefits

Boundaries – Noise Zones and Safety Zones

Land Use Regulations – Noise Zones and Safety Zones

CommunityViz Demonstration

Discussion and Questions



## Public Outreach and Education Calendar:

### Liberty Consolidated Planning Commission

Tuesday, April 20, 2011  
11:00 am  
LC Annex Board Room  
112 N. Main Street, Hinesville, GA

### Long County Planning and Zoning Board

Thursday, April 21, 2011  
6:00 pm  
Long County Courthouse  
459 McDonald Street, Ludowici, GA

### Bryan County Planning and Zoning Meeting

Thursday, May 5, 2011  
7:00 pm  
Bryan County Courthouse Annex  
Pembroke, GA

### Fort Stewart Growth Management Partnership

Tuesday, May 24, 2011  
1:00 pm  
Liberty County Annex Board Room  
112 N. Main Street, Hinesville, GA